

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year.

To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The amendments to the FMCSR and the HMR that have become final and effective since the 2010 edition of the CFR are listed below. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMR

Parts 390, 391, and 392 (FR Vol. 75, No. 186, Pages 59118-59136), 09-27-10

The Federal Motor Carrier Safety Administration (FMCSA) amended the Federal Motor Carrier Safety Regulations by prohibiting texting on electronic devices by commercial motor vehicle (CMV) drivers and imposed sanctions, including civil penalties and disqualification from operating CMVs. Additionally, motor carriers are prohibited from requiring or allowing their drivers to engage in texting while driving. FMCSA also amended its commercial driver's license (CDL) regulations to add to the list of disqualifying offenses a conviction under state or local traffic laws or ordinances that prohibit texting by CDL drivers while operating a CMV, including school bus drivers. Effective Date: October 27, 2010.

Part 393 (FR Vol. 75, No. 212, Pages 67634-67635), 11-03-10

The Federal Motor Carrier Safety Administration (FMCSA) confirmed the effective date of the direct final rule titled "Parts and Accessories Necessary for Safe Operation: Antilock Brake Systems," published on September 21, 2010, in the Federal Register (75 FR 57393). This rule made permanent the existing requirement in the Federal Motor Carrier Safety Regulations that each trailer with an antilock brake system be equipped with an external malfunction indicator lamp. Effective Date: November 22, 2010.

Parts 171, 172, 173, 178, and 180 (FR Vol. 76, No. 12, Pages 3307-3389), 01-19-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended the Hazardous Materials Regulations to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport limited quantities, and vessel stowage requirements. These revisions were necessary to harmonize the Hazardous Materials Regulations with changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations. Effective Date: January 19, 2011.

Parts 171 and 173 (FR Vol. 76, No. 21, Pages 5483-5494), 02-01-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended the Hazardous Materials Regulations by incorporating provisions contained in certain widely used or longstanding cargo tank special permits that have established safety records. Special permits allow a company or individual to package or ship a hazardous material in a manner that varies from the regulations, provided an equivalent level of safety is maintained. Effective Date: March 3, 2011.

Part 177 (FR Vol. 76, No. 39, Pages 10771-10778), 02-28-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended the Hazardous Materials Regulations by prohibiting texting on electronic devices by drivers during the operation of a motor vehicle containing a quantity of hazardous materials requiring placards or any quantity of a select agent or toxin listed in the Department of Health and Human Services' "Select Agents and Toxins" regulations. Additionally, in accordance with requirements adopted on September 27, 2010, by the Federal Motor Carrier Safety Administration (FMCSA), motor carriers are prohibited from requiring or allowing drivers of covered motor vehicles to engage in texting while driving. Effective Date: March 30, 2011.

Part 395 (FR Vol. 76, No. 87, Pages 25588-25590), 05-05-11

The Federal Motor Carrier Safety Administration (FMCSA) amended the Federal Motor Carrier Safety Regulations to adopt regulatory language regarding hours of service (HOS) consistent with the statutory exemption authorized for certain railroad signal employees operating commercial motor vehicles (CMVs) in connection with railroad signal work. This action is in accordance with the Rail Safety Improvement Act of 2008 (RSIA of 2008), which took effect July 16, 2009. Effective Date: May 5, 2011.

Part 390 (FR Vol. 76, No. 98, Pages 29169-29170), 05-20-11

The Federal Motor Carrier Safety Administration (FMCSA) amended the Federal Motor Carrier Safety Regulations to extend until June 30, 2012, the compliance date of the requirement for drivers and motor carriers to prepare a driver-vehicle inspection report (DVIR) on an item of intermodal equipment (IME) when no damage, defects, or deficiencies are discovered by, or reported to, the driver. The previous compliance date was June 30, 2011. As a result of this action, drivers and carriers are not required to prepare no-defect DVIRs until June 30, 2012. This action is being taken to provide the FMCSA with sufficient time to address, through a notice-and-comment rule-making proceeding, a petition to rescind the requirement for no-defect DVIRs on intermodal equipment. Effective Date: May 20, 2011.

Parts 171 and 177 (FR Vol. 76, No. 109, Pages 32867-32873), 06-07-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) in coordination with the Federal Motor Carrier Safety Administration (FMCSA) approved the use of the National Fire Protection Association Standard (NFPA) 498—Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives (2010 Edition) for the construction and maintenance of safe havens used for unattended storage of Division 1.1, 1.2, and 1.3 explosives. Effective Date: July 7, 2011.

Part 172 (FR Vol. 76, No. 123, Pages 37283-37285), 06-27-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended the Hazardous Materials Regulations by removing saccharin and its salts from the list of hazardous substances and reportable quantities. The U.S. Environmental Protection Agency (EPA) recently removed saccharin and its salts from its list of hazardous substances through notice-and-comment rule making, and this final rule harmonizes the lists to better enable shippers and carriers to identify the affected hazardous substances and comply with all applicable regulatory requirements. Effective Date: June 27, 2011.

Parts 107, 171, 172, 173, 177, 178, and 180 (FR Vol. 76, No. 139, Pages 43510-43532), 07-20-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended the Hazardous Materials Regulations to update and clarify certain regulatory requirements. These amendments are intended to promote safer transportation practices, eliminate unnecessary regulatory requirements, finalize outstanding petitions for rule making, facilitate international commerce, and simplify the regulations. Effective Date: August 19, 2011.

Part 393 (FR Vol. 76, No. 177, Pages 56318-56322), 09-13-11

The Federal Motor Carrier Safety Administration (FMCSA) amended the Federal Motor Carrier Safety Regulations to eliminate the requirement for operational brakes on the last saddle-mounted truck or tractor in a triple saddle-mount combination, except when a full mount is present. This action is in response to a petition for rule making from the Automobile Carriers Conference (ACC) of the American Trucking Associations (ATA), which stated that this requirement degrades the braking performance of these combinations because the lightly loaded axle of the last vehicle tends to lock up under heavy braking. Effective Date: October 13, 2011.

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)817-6511; Internet E-mail address: steven.bowman@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than January 31, 2012.

A meeting to hear requested oral presentations is scheduled for Thursday, February 2, 2012, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 321.

Proposed rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2010~~ 2011).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2010~~ 2011).